

July 3, 2014

Mr. Brian Johnson
BPR, Inc.
150 Airport Drive, Suite 4
Westminster, MD 21157

Re: Advance Auto Parts at 9101 Liberty Road
Forest Conservation Variance
Tracking # 04-14-1840

Dear Mr. Johnson:

A request for a variance from the Baltimore County Code Article 33, Title 6 Forest Conservation was received by the Department of Environmental Protection and Sustainability (EPS) on June 27, 2014. This request proposes to remove three (3) specimen trees in fair to poor condition on a 1.1-acre property. The proposed redevelopment activity entails razing the dilapidated buildings and grading the entire site. No forest, streams, wetland or buffer area would be impacted by this redevelopment. The trees to be removed are two silver maples (38 and 48 inches DBH) and one 41-inch DBH eastern red cedar. The 38-inch maple and the cedar are in poor condition.

The Director of EPS may grant a special variance to the Forest Conservation Law in accordance with criteria outlined in Section 33-6-116(d)(1) of the Code. There are six (6) criteria listed in Subsection 33-6-116(d) and (e) that shall be used to evaluate the variance request. One (1) of the criteria under Subsection 33-6-116(d) must be met, and all three (3) of the criteria under Subsection 33-6-116(e) must be met, in order to approve the variance.

The first criterion (Subsection 33-6-116(d)(1) of the Code) requires the petitioner show the land in question cannot yield a reasonable return if the requirement from which the special variance is requested is imposed and will deprive the petitioner of beneficial use of his property. The applicant proposes to revitalize a small property in decay. However, full application of the law would not deprive the petitioner of all beneficial use of the property. Therefore, we find that this criterion has not been met.

The second criterion (Subsection 33-6-116 (d)(2) of the Code) requires that the petitioner show that his/her plight is due to unique circumstances and not the general conditions of the neighborhood. The proposed improvements are due to unique circumstances associated with the location of the trees relative to the useable area onsite rather than general conditions in the neighborhood. Therefore, we find the second criterion has been met.

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The third criterion (Subsection 33-6-116(d)(3) of the Code) requires that the petitioner show that the special variance requested will not alter the essential character of the neighborhood. The 1.1-acre, BL-zoned property is situated in a commercial corridor along Liberty Road. Redeveloping it as a commercial store would be consistent with the character of the neighborhood and its zoning. Therefore, we find that this criterion has been met.

The fourth criterion (Subsection 33-6-116(e)(1) of the Code) requires that the granting of the special variance will not adversely affect water quality. We have determined that the proposed redevelopment will not impact any stream system or associated buffer area. Therefore, we find that granting of the special variance will not adversely affect water quality and that this criterion has been met.

The fifth criterion (Subsection 33-6-116(e)(2) of the Code) requires that the special variance request does not arise from a condition or circumstance that is the result of actions taken by the petitioner. The petitioner has not taken any actions on the property prior to requesting this variance. Therefore, this criterion has been met.

The sixth criterion (Subsection 33-6-116(e)(3) of the Code) requires that the Director of EPS find that the special variance, as granted, would be consistent with the spirit and intent of Article 33 of the Baltimore County Code. Allowing the removal of 3 specimen trees in fair to poor condition to redevelop a 1.1-acre commercial property well removed from any forest or priority retention area would be consistent with the spirit and intent of Forest Conservation Law. Therefore, this criterion has been met.

Based on our review, this Department finds that all required criteria have been met. Therefore, the requested variance is hereby approved in accordance with Section 33-6-116 of the Baltimore County Code with the following conditions:

1. The removal of the 48-inch DBH silver maple in fair condition shall be mitigated by payment of a \$2,035 fee in lieu of planting prior to issuance of any grading or building permit for the property. There is no mitigation required for the two specimen trees in poor condition.
2. In addition to the required specimen tree mitigation, the 0.2-acre afforestation requirement shall be met by either purchase of credit in a EPS approved forest retention bank using the enclosed authorization letter or payment of a \$4,356 fee in lieu prior to issuance of any permit for the site.
3. A note must be added to all subsequent plans stating: "A forest conservation variance was granted by Baltimore County Department of Environmental Protection & Sustainability on July 3, 2014 to remove three specimen trees. Mitigation was provided for the loss of the one specimen tree in fair condition"

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4. A forest conservation plan addressing conditions 1-3 above and the comments in the companion EPS letter shall be submitted to EPS and approved prior to any future permit issuance.

It is the intent of this Department to approve this variance subject to the above conditions. Any changes to site layout may require submittal of revised plans and an amended variance request. Please be advised that this variance approval does not exempt future development activities at this site from compliance with the Baltimore County's Forest Conservation Law.

Please have the party(-ies) responsible for implementing the conditions of this variance sign the statement on the following page and return a signed copy of this letter to this Department within 21 calendar days. Failure to return a signed copy may render this approval null and void, or may result in delays in the processing of plans for this project.

If you have any questions regarding this correspondence, please call Mr. Glenn Shaffer at (410) 887-3980.

Sincerely yours,

Vincent J. Gardina
Director

Enclosure

- c. Ms. Kimberly Parson, ACT, LLC
Mr. Chris Neill, Primax Properties, LLC
Ms. Marian Honecny Maryland Dept. of Natural Resources

VJG/ges

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I/we agree to the above conditions to bring my/our property into compliance with Baltimore County's Forest Conservation Law.

Property Owner's Signature

Date

Property Owner's Printed Name

Contract Purchaser's Signature

Date

Contract Purchaser's Printed Name